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OFFICE OF PETITIONS

In re Application of
Peter Vinz
Application No. 08/875,916
Filed: October 31, 1997
Attorney Docket No. 006105.00001

: DECISION ON PETITION
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This is a decision on the petition filed on September 17, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed December 28, 2000. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a Continued Prosecution Application (CPA) on April 25, 2001. However, because applicant did not purchase the necessary one month extension of time to make the CPA timely, **the CPA should not have been entered**. Accordingly, the above-identified application became abandoned on March 29, 2001.

However, in spite of the abandonment of the above-identified application, the CPA was entered and prosecution of the application continued, including the mailing from this Office of a non-final Office action on June 29, 2001, and a Notice of Non-Compliant Amendment on January 2, 2002.

The Office actions mailed June 29, 2001 and January 2, 2002 are hereby **VACATED**.

With the instant petition, petitioner has filed a CPA under 37 CFR 1.53(d), in response to the final Office action of December 28, 2000. In addition, petitioner has met all other requirements for a grantable petition under 37 CFR 1.137(b). Petitioner paid the petition fee and made the proper statement of unintentional delay under 37 CFR 1.137(b)(3).

The Power of Attorney filed May 1, 2002 has been entered. Future correspondence concerning this application will be forwarded to the above address of record.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for

reply to avoid abandonment. Accordingly, since the \$55 extension of time fee submitted with the petition on September 17, 2002 was subsequent to the maximum period obtainable for reply (June 28, 2001), this fee has been refunded to Deposit Account No. 19-0733.

The application file is being forwarded to Technology Center 1700 for processing of the CPA, filed September 17, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.



Cliff Congo
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for Patent Examination Policy